

By: Villalba

H.B. No. 1363

A BILL TO BE ENTITLED

AN ACT

relating to a sales and use tax exemption for certain pool safety barriers.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter H, Chapter 151, Tax Code, is amended by adding Section 151.357 to read as follows:

Sec. 151.357. POOL SAFETY BARRIER. (a) In this section:

(1) "Eligible pool safety cover" means a manual or motor-powered pool safety cover for a pool that:

(A) is designed to completely cover the water area of the pool;

(B) conforms to the American Society for Testing and Materials (ASTM) Standard F1346-91, "Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Swimming Pools, Spas and Hot Tubs," as it existed on January 1, 2017; and

(C) is not required by law, other than a municipal ordinance authorized by Section 214.101, Local Government Code, to be installed on the pool.

(2) "Eligible pool safety enclosure" means a fence, wall, or combination of fences, walls, or gates, other than a wall, window, or door of a permanent building, that:

(A) completely surrounds a pool area, other than any portion of the pool area that is enclosed by a wall or window,

1 but not a door, of a permanent building;

2 (B) does not surround any area that is beyond a  
3 pool area;

4 (C) complies with the specifications prescribed  
5 for a pool yard enclosure and gate by:

6 (i) Sections 757.003 and 757.004, Health  
7 and Safety Code; and

8 (ii) any applicable rules adopted under  
9 Section 757.011, Health and Safety Code; and

10 (D) is not required by law, other than a  
11 municipal ordinance authorized by Section 214.101, Local  
12 Government Code, to surround the pool area.

13 (3) "Pool" means a permanent swimming pool, permanent  
14 wading pool, or permanent hot tub or spa that is:

15 (A) intended for swimming or recreational  
16 bathing;

17 (B) located at ground level, above ground, or  
18 below ground; and

19 (C) designed to contain water more than 18 inches  
20 deep.

21 (4) "Pool area" means an area containing a pool and any  
22 component decked or landscaped area adjacent to the pool that  
23 extends not further than 10 feet at any point from the nearest edge  
24 of the pool.

25 (b) The following are exempted from the taxes imposed by  
26 this chapter:

27 (1) tangible personal property used to construct or

1 install an eligible pool safety enclosure if sold to a person who is  
2 in the business of constructing or installing fences, walls, gates,  
3 or similar structures and who will construct or install the  
4 enclosure;

5 (2) an eligible pool safety cover if sold to a person  
6 who is in the business of installing that type of cover and who will  
7 install the cover; and

8 (3) otherwise taxable services used to construct or  
9 install the enclosure or cover.

10 (c) A person eligible to claim an exemption under this  
11 section who constructs or installs an eligible pool safety  
12 enclosure or installs an eligible pool safety cover for the owner of  
13 a pool:

14 (1) may not require the owner to pay the tax imposed by  
15 this chapter on tangible personal property or taxable services  
16 exempted from taxation under this section;

17 (2) shall provide written notice to the owner before  
18 construction or installation begins that the owner is not required  
19 to pay the taxes described by Subdivision (1); and

20 (3) shall include a statement on a final receipt  
21 provided to the owner specifying that the owner has not been charged  
22 for the taxes described by Subdivision (1).

23 (d) The comptroller shall adopt rules necessary to  
24 implement this section, including rules to enforce the requirements  
25 of Subsection (c).

26 SECTION 2. The change in law made by this Act does not  
27 affect tax liability accruing before the effective date of this

1 Act. That liability continues in effect as if this Act had not been  
2 enacted, and the former law is continued in effect for the  
3 collection of taxes due and for civil and criminal enforcement of  
4 the liability for those taxes.

5 SECTION 3. This Act takes effect January 1, 2018.